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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,625	10/02/2003	Peter Jahn	Bayer 10265-WCG	9802
27386	7590	09/21/2005	EXAMINER	
NORRIS, MCLAUGHLIN & MARCUS, P.A. 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022			LEO, LEONARD R	
			ART UNIT	PAPER NUMBER
			3753	

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/677,625

Applicant(s)

JAHN ET AL.

Examiner

Leonard R. Leo

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. *Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading.* If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “at least one holed sheet ... inserted between said two sheets” in claim 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Although, Figures 9a-d disclose the holed sheet solely, the combined duct structure should be shown.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 7 is objected to because of the following informalities: the value of "0,7" should read -- 0.7 --. Appropriate correction is required.

Claims 14-18 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

The recitation of "even without [a] holed sheet" does not further limit the claim. Claim 1 from which the claims depend, recites a holed sheet. Omitting the previously recited structure does not further limit the claim and is improper.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "the surface" in line 3. There is insufficient antecedent basis for this limitation in the claim. It is unclear whether structure is referring to the bottom of the depression or top plane of the sheet.

A ratio of the depression width at the surface of the sheet to center-to-center distance between two adjacent depressions is always less than 1.0, since the pitch will always be greater than any width distance in a trapezoidal depression.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 6-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bae et al in view of Wennerberg.

Bae et al discloses all the claimed limitations except a holed sheet between the top and bottom sheets.

Wennerberg discloses a heat exchanger comprising a pair of sheets 1 having depressions 3 and a holed sheet 9 there between for the purpose of increasing turbulence to improve heat exchange (column 1, lines 44-49 and column 3, lines 15-17).

Since Bae et al and Wennerberg are both from the same field of endeavor and/or analogous art, the purpose disclosed by Wennerberg would have been recognized in the pertinent art of Bae et al.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Bae et al a holed sheet for the purpose of increasing turbulence to improve heat exchange as recognized by Wennerberg.

The recitations of “worked into the sheet in a material-removing and/or material-displacing manner” in claim 1, “by material stripping or material displacement” in claim 4

Regarding claim 2; Bae et al discloses headers 14, 16 having a larger area than the ducts 12.

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Regarding claims 4 and 9-10, as gleaned from the drawings, Bae et al discloses the ratio of the depression depth to sheet thickness of about 75%. One of ordinary skill in the art would employ any desired ratio to achieve a desired pressure drop and heat exchange, or pressure strength and weight.

Regarding claim 6, Bae et al meets the claim limitation, since the pitch is always greater than any intermediate width.

Regarding claim 7, as gleaned from the drawings, Bae et al discloses the ratio of the width to center-to-center distance of about 80%.

Regarding claim 8, Figure 2 of Bae et al meets the claim limitation.

Regarding claims 11-12, Bae et al (column 2, lines 21-23) discloses the angle is from 20 to 45°.

Regarding claims 13-18, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bae et al in view of Wennerberg as applied to claims 1-4 and 6-18 above, and further in view of Guntly et al.

The combined teachings of Bae et al and Wennerberg lacks a specific sheet thickness. Bae et al discloses typical heat exchangers have tubes with a hydraulic diameter of less than 0.07 inch or less. Guntly et al is cited in Bae et al as such as device.

Guntly et al discloses a heat exchanger comprising a thermal duct 20 having a tube thickness of 0.075 inch (1.9 mm) for the purpose of minimizing the airside pressure drop.

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Since Bae et al and Guntly et al are both from the same field of endeavor and/or analogous art, the purpose disclosed by Guntly et al would have been recognized in the pertinent art of Bae et al.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Bae et al a tube thickness of 0.075 inch (1.9 mm) for the purpose of minimizing the airside pressure drop as recognized by Guntly et al.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonard R. Leo whose telephone number is (571) 272-4916. The examiner can normally be reached on Monday thru Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on (571) 272-4930. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in cursive script, reading "Leonard R. Leo".

LEONARD R. LEO
PRIMARY EXAMINER
ART UNIT 3753

September 17, 2005